

The sequence listing has been amended in order to correct minor typographical errors therein. More specifically, the originally filed sequence listing contained SEQ ID NOS: 1 and 2, each having 4354 and 1443 bases, respectively. The enclosed sequence listing, including the enclosed computer readable format sequence listing, contains all this information once more. Accordingly, no new matter is believed to be introduced by the above amendment to the specification.

Claims 1-18 are canceled without prejudice and in favor of new Claims 19-30. Support for the new claims is found in the originally-filed claims. Accordingly, no new matter is believed to be introduced by the above amendment.

#### REMARKS

Claims 1-18 are canceled. Claims 19-30 are pending. Favorable consideration is respectfully requested.

At the outset, Applicants thank Examiner Collins for her helpful comments during the courteous discussion of the present application held on July 11, 2003, which is summarized and expanded upon below. Further, Applicants thank Examiner Collins for indicating that the above amendment combined with the remarks below would further favorable prosecution of the present application.

The objection to Claim 10 is obviated by the cancellation of this amendment. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 1-18 under 35 U.S.C. §112, first paragraph, is believed to be obviated by the above-mentioned amendment. More specifically, the rejection is based upon limitations that permit one or more bases to be deleted, added, or replaced within a polynucleotide fragment. The above-mentioned amendment fails to contain such language

and focuses the skilled artisan's attention on SEQ ID NO: 2 and subject matter related thereto. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 1-18 under 35 U.S.C. §112, second paragraph, is believed to be obviated by the above-mentioned amendment. More specifically, Claims 1 and 10 have been rejected for containing "indefinite" language such as "functions to regulate expression of a structural gene viable in a plant or plant cell." This language has been removed from the claims all together. Accordingly, withdrawal of this ground of rejection is respectfully requested. In addition, Claims 7 and 16 have been rejected for containing "indefinite" language such as "transformed with the host bacterium." The above-mentioned amendment arranges the claim language to eliminate this subject matter. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 1 and 10 under 35 U.S.C. §101 is believed to be obviated by the above-mentioned amendment. More specifically, the pending claims now specify that the claimed polynucleotide is isolated. Accordingly, withdrawal of this ground of rejection is respectfully requested. The rejection of Claims 6, 9, 15, and 18 under 35 U.S.C. §101 is believed to be obviated by the above-mentioned amendment. More specifically, the Examiner has indicated that an amendment to the claims to recite that the seeds comprise a genome the vector that was introduced into the parent plant would overcome the rejection. In accordance with the Examiner's suggestion, Applicants have utilized the "comprising" language. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 1-3 and 10-12 under 35 U.S.C. §102(b) over Kawai et al. is believed to be obviated by the above amendment. More specifically, during the above-mentioned discussion of the present application, the Examiner indicated that Claims 10-12 are rejected because it is her position that Kawai et al. discloses and/or suggests a DNA

fragment consisting all or part of SEQ ID NO: 2 wherein one or more bases may be deleted, added or replaced.

In direct contrast, the presently claimed invention relates to polynucleotides, vector, host bacterium, plant cells, seeds, and plants, containing the polynucleotide having an amino acid sequence of SEQ ID NO: 2. As indicated during the interview, Kawai et al. fails to disclose or suggest an amino acid sequence of SEQ ID NO: 2. Since Kawai et al. fails to disclose or suggest the claimed invention, Applicants respectfully request withdrawal of this ground of rejection.

The rejection of Claims 4-9 and 13-18 under 35 U.S.C. §103(a) over Kawai et al. in combination with Rodriguez is believe to be obviated by the above-mentioned amendment.

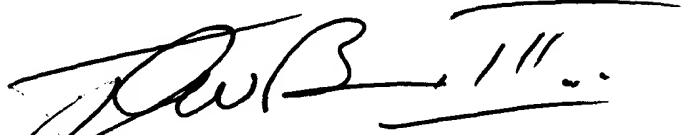
As discussed above and indicated during the above-mentioned interview, Kawai et al. Clearly fails to disclose or suggest polynucleotides, vector, bacterium, plant cells, seeds, and plants, containing a polynucleotide sequence of SEQ ID NO: 2. Accordingly, Kawai et al. ails to discloses or suggest the claimed invention.

Moreover, Rodriguez discloses, at best, rice plant cells transformed with a vector containing a hormone-inducible rice RamylA promoter operably linked to a GUS reporter gene. Plants regenerated from the plant cells, and seeds from these plants begin (see columns 33-36). However, as discussed at the above-mentioned interview, Rodriguez fails all together to provide a disclosure or suggestion of polynucleotides, vectors, bacterium, plant cells, seeds, and plants containing a nucleic acid sequence of SEQ ID NO: 2. Therefore, it is clear that Rodriguez fails to supplement the inadequate disclosure of Kawai et al., and Kawai et al. in any combination with Rodriguez fails to disclose or suggest the claimed invention. Accordingly, withdrawal of this ground of rejection is respectfully requested.

Applicants respectfully submit that the present application is now in condition for allowance. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact the Applicants' attorney by telephone.

Respectfully submitted,

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IN THE CLAIMS

Claims 1-18 (Canceled).

Claims 19-30 (New).